IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 5727 of 2004

Decided on 21.09.2006

M/s Dhawani Enterprises

.....Petitioner

Haryana Urban Dev. Authority Etc.

.....Respondents

Coram: Hon'ble Mr. Justice Vinod K. Sharma

Present: Mr. Ajay Jain, Advocate,
for the petitioner.

Mr. Raman Gaur, Advocate,
for respondent No. 1.

Vinod K. Sharma, J.(oral)

This revision petition has been filed against the impugned orders passed by the learned Courts below declining temporary injunction to the petitioner. The petitioner-plaintiff had filed a suit for declaration and injunction challenging the notice issued to the petitioner calling upon him to demolish the verahanda. The said notice was issued to respondent No. 2 i.e. the owner. It is not in dispute that there was a decree passed against the owner ex-parte ordering demolition of the verahanda and it was in pursuance to the execution of the decree that the said notice was issued. Learned Courts below has held that as the action is being taken in the execution of the decree passed by the trial Court, there was no prima facie case in favour of the petitioner nor the balance of convenience was in favour of the petitioner. Learned counsel for the petitioner contends that he being a tenant has an independent right to file the present suit and seek injunction as his rights are directly affected, specially when he was not a party in the said suit. However, this contention is misconceived, as notice challenged by the petitioner was not addressed to him and the same was addressed to the owner, who has already taken steps to get the ex-parte

decree set aside and has obtained the order of status quo. The petitioner otherwise has his remedy to file objections in execution of decree, if he can establish any independent right before the Court.

Therefore, there is no merit in the present revision petition.

Dismissed.

(VINOD K.SHARMA)
JUDGE

September 21, 2006
pj